

CATHOLICS UNDER THE IRISH PARLIAMENT

BY MICHAEL MACDONAGH

WE can see the process of electing the Parliament of the Irish Nation during the eighteenth century through contemporary documents, official and private; and as we thus regard it, one amazing paradox is constantly forced upon our attention. In all the stir and movement of the general election throughout the length and breadth of Ireland the real people of the country, native and Catholic, had no direct concern, and were, as a rule, detached spectators of the proceedings. That the people of Ireland were excluded from the Parliament of Ireland and denied the franchise, on account solely of the form of the Christian faith which they professed, is a well-known fact; and yet, no matter how frequently it may be brought to our notice, it always affects the mind accustomed to the tolerance of the twentieth century like an announcement sudden, startling, and inexplicable.

By the treaty signed at the Capitulation of Limerick to the Williamites in October, 1691—that city being the last place in the Kingdom which held out for James the Second—it was provided that the Irish Catholics should continue in the enjoyment of such rights, religious, political and civil, as they possessed in the reign of Charles the Second. These rights included the exercise of the franchise in counties and boroughs, and admission to both Houses of Parliament. But in the very next Session of the English Parliament, and within three months of the signing of the Treaty of Limerick, a law was passed excluding Catholics from the Legislature, by making it compulsory

upon members to take oaths of allegiance, supremacy, and abjuration which no Catholic could subscribe to without doing violence to his belief in doctrines which his Church held to be true and sacred—the Sacrifice of the Mass, the Invocation of Saints, and the ecclesiastical jurisdiction of the Pope. The operation of the Act was specifically extended to Ireland—this country being then treated as if it were without a Parliament of its own and a mere dependency of England—but, at any rate, the first Irish Parliament summoned after the Revolution, which met in October, 1692, approved of the statute, and thus commenced the framing of the long and infamous roll of Penal Laws against Papists. As regards the right to vote, Catholics were not expressly deprived of it by statute until 1727, when the Irish Parliament passed a disfranchising Act, the 1 Geo. II, c. 9.

What exactly was the electoral position of Catholics possessing the forty-shilling freehold qualification for the franchise before 1727 is somewhat uncertain. Different opinions on the point were given in a debate in the Irish House of Commons towards the end of the eighteenth century, some of the speakers maintaining that the Catholics could, and some that they could not, exercise the franchise. Whether Catholics were allowed to vote or not appears to have depended on the scruples of the sheriff or returning officer, but it is highly probable that very few of them were polled either in the counties or in the boroughs. At any rate after 1727 Catholics were absolutely excluded from the Constitution until 1793, when they were again enfranchised. Therefore the vast mass of the population had no part or lot in the Irish Parliament, even in the hey-day of its history, the ten years which followed the declaration of its legislative independence in 1782.

Indeed, Protestants having Papist wives were subject to all the political and civil disabilities of Catholics. ‘A Protestant married to a Papist wife since the first day of January, 1697,’—says an Act passed in the course of that year by the Irish Legislature—‘who hath not within

one year after such marriage become a Protestant, hath not a right to vote at any election of a Member to serve in Parliament.' Incidentally this statute tends to prove that Catholics did not vote at any time subsequent to the Revolution. As Protestants with Papist wives were disfranchised as early as 1697, it is unlikely that Papists were knowingly permitted to vote before 1727. But the point upon which I now wish to dwell, is that petitions to Parliament on controverted elections were chiefly based on contentions and disputes in regard to the votes of electors whose Catholic wives had not conformed within a year of their marriage.

The evidence given before the committees of the House of Commons, to whom these petitions were referred, is printed in the earlier volumes of the Commons *Journals*. It discloses an amazing condition of affairs, which almost passes belief that it could ever have existed in a Catholic country like Ireland. There was a petition, for instance, on the Clare election of 1727. In the ultimate result the House decided that the legal voting was as follows:—Sir Edward O'Brien, Bart., 196; Francis Burton, 187; George Purdon, 182; and John Ivers, 149; and, accordingly, the first two were elected. But at the close of the poll, at Ennis, the sheriff, Thomas Studdart, had declared Purdon to be returned with O'Brien, and the object of the petition was to unseat Purdon. It would appear from the evidence as if the election turned, almost entirely, on the decision of the question: Was the wife of John Lyons, one of the voters for Purdon, a Catholic? Thomas Cusack, a neighbour, deposed that the parents of Mrs. Lyons were Papists, but that she herself 'was bred in a Protestant family'; also, that she had been a Protestant since she was nine or ten years old, and that he saw her at church about twenty times. This evidence was controverted by the Protestant clergyman of the parish, Marcus Paterson. He swore that Lyons' wife was 'a reputed Papist' for twenty-one years. 'She never went to church to his knowledge,' he said, 'never heard she was a Protestant

till the election ; he christened some of her children, and at the same time met the Popish priest going into the room where she lay to purify her, which he heard the priest himself say was his business into the room.'

In the case of another disputed vote, we get news of the Irish Brigade which followed General Patrick Sarsfield into France, after the capitulation of Limerick. Was John Nihill qualified to vote ? It was contended that he was a Papist ; and that if he were not a Papist himself, he certainly had a Papist wife. His uncle, Michael Nihill, swore that his brother, the father of the voter, 'was in the late war sent by Sarsfield into France with news,' and that his wife soon joined him there when he was appointed 'Pay-Master General in France to the Irish Forces abroad.' He went on to depose that their son, John Nihill, the voter, was brought back to Ireland when he was but ten months old. 'He further said,' continues the official report, 'that his said nephew had been a Protestant since he came into Ireland, but that he was married to a Popish wife.'

The same question was raised in a petition affecting an election in the 'city of Cashel, Tipperary,' in 1733. It was decided by the House of Commons that the proper return was as follows : Stephen Moore, 155 ; Richard Penefather, 116. But the sheriff had declared Penefather elected ; and Moore lodged the petition. It was alleged that Christopher Physick, a voter for Penefather, was married 'to one Nell Dwyer, who is a reputed Papist.' A witness swore that 'he being in the Popish priest's house at the wake of one Francis Duine, a schoolmaster, the said Nell Dwyer came into the house, and when she saw a crucifix on the corpse she kneeled down at the table hard by and crossed herself and laid down money on the table.' Another witness went the length of violating the confidences of social intercourse. He swore that William Hulbert, whose vote was also controverted, 'had dined with him and confessed to him that his wife was a Papist.'

An extraordinary duel arose out of the disallowance of a vote on the ground that the voter's wife was a Catholic,

at a Clonmel election in 1761. The disfranchised elector sent a challenge to the agent, acting for one of the candidates, who brought to light the fact that his wife was of the proscribed religion. The parties met on Clonmel Green, on the banks of the Suir, each mounted, and armed with a brace of pistols in his saddle bag. A large crowd gathered to see the fight. For a time the combatants rode their horses round and round each other, both of them watching intently for the opportunity to fire with effect. Then the pistol of the agent rang out and the voter, shot through the heart, tumbled dead to the ground. The spectators, whose sympathies were all on the side of the voter, raised a yell of execration; and the agent only escaped with his life by swimming his horse to the opposite bank of the river, and dashing helter-skelter across country.

The mass of people could not be expected to take a very friendly interest in a Parliament which enslaved them politically, plundered them of their property, debarred them from all the material prizes of life in commerce and the professions—however great their deserts or how shining their abilities—and, what was hardest of all to endure, deprived them of the consolations of their ancient religion, which they so fondly cherished, by placing a price on the heads of their priests. Under these circumstances the Catholics in the main were but slightly stirred by such excitement as attended the county elections. There is evidence, however, that in the earlier years of the eighteenth century some of the Catholic gentry sought to affect the issue of contests by the exercise of their local influence. The *Journals* set forth the terms of a petition presented to the House of Commons in November, 1713, by Thomas Burdett against the election of Jeffry Paul, one of the Members for ‘the County of Catherlough,’ as Carlow was then styled. Burdett declared that he was ‘duly elected by a considerable majority of the real and known freeholders.’ He charged several ‘Popish gentlemen’ with having, ‘without regard to the laws for preventing Papists breeding any dissensions among Protestants at elections,’

interfered in the contest by 'making several occasional freeholders, some of which were their menial servants in livery,' and 'by appearing in the field'—the popular term for an election—'well mounted and well armed and in red coats, with several of their emissaries throughout the field managing and seducing freeholders.'

However, the *Journals*, the statutes, and contemporary accounts of proceedings at elections, all tend to show that Catholic influence on the issue of contests can have been, at the best, but very trifling. As everyone suspected of being a Papist was tendered the oaths of allegiance, supremacy, and abjuration, any Catholic who tried to vote could only succeed by first perjuring himself; and so commonly was the precaution of tendering the oaths to voters under suspicion adopted by the returning officer, that polling in the counties was slow and tedious. Even the voting of the pervert was conditional on some proof being forthcoming of the stability of his change of faith. By an Act passed in 1753 he was not qualified as an elector unless he had conformed to the Protestant religion six months before the election.

But no Government, however powerful, can tame the spirit of a people by persecution, and compel them to pay homage to a system of laws which they feel they have reason to abhor. The peasantry had their own parliaments for the redress of grievances in the local lodges of Whiteboyism. The famous Lord Chesterfield, who was Viceroy towards the middle of the century, has some wise comments in his *Letters* on the agrarian disturbances in Ireland. He says the peasantry 'were used worse than negroes by their lords and masters and'—referring to the 'middlemen' often three deep—'their deputies of deputies of deputies,' and he ascribes Whiteboyism to 'the sentiment in every human breast that asserts man's natural right to liberty and good usage, and that will and ought to rebel when oppressed and provoked to a certain degree.' Thus it was that bands of men, under the sheltering cover of the night, wearing white shirts that they might the more easily recognise each other

in the darkness, went forth to carry out the decrees of the local parliaments, and execute the wild justice of revenge. Nor can any Government, however strong, for ever fetter the aspirations of a people and perpetually keep a gag in their mouths. A committee representative of all that survived after the Revolution of the ancient Catholic gentry of Ireland, and also of the rising Catholic commercial class in the towns, was formed to agitate for the enfranchisement of the banned race and faith. They were aided by those two uprisings of oppressed humanity, the French Revolution, and the establishment of the Republic of the United States, which so enormously advanced constitutional freedom the world over.

The first sign of change is seen in the more respectful terms of reference by the dominant and governing classes to the common people. In the *Journals* of both Houses of Parliament, the statutes and all official documents of the Government, Catholics were, for many years, contemptuously termed 'Papists,' or 'persons professing the Popish religion.' The offensive epithet fell into some disuse about 1778, but it was not until 1793, the year in which the people were admitted to the franchise, that the followers of the creed of the nation were for the first time called 'Catholics,' in the Speech from the Throne. It was the first time also that the Government submitted the Catholic claims to the sympathetic consideration of Parliament. At the meeting of the Legislature on January 10th, 1793, the Viceroy, Lord Westmorland, in the course of his speech to both Houses, said :—

I have it in particular command from His Majesty to recommend it to you to apply yourselves to the consideration of such measures as may be most likely to strengthen and cement a general union of sentiment among all classes and descriptions of His Majesty's subjects in support of the established Constitution. With this view His Majesty trusts that the situation of His Majesty's Catholic subjects will engage your serious attention, and in the consideration of this subject he relies on the wisdom and liberality of his Parliament.

The eloquent and persistent advocacy of Henry Grattan and other friends of the people in the House of Commons, backed by the unremitting agitation of the Catholic Committee outside, ably conducted by John Keogh, the Dublin merchant, and aided by Wolfe Tone, the great revolutionary, through many disappointing years, was at last to be crowned with success. The Chief Secretary, Hobart, brought in the Relief Bill. In Committee the clause giving the franchise to Catholics was carried by 144 votes to 72. A new clause proposing to admit Catholics to Parliament was moved by Mr. George Knox and seconded by Mayor Doyle. It was opposed by the Government. By a curious chance the chief speaker against the clause, on behalf of the Government, was a young Member who then called himself 'Arthur Wesley'—known subsequently as 'Wellesley'—the future Duke of Wellington, who, as Prime Minister in 1829, carried the Catholic Emancipation Act in the Imperial Parliament. The clause was defeated by 163 votes to 69. On April 9th, 1793, the Act—33 Geo. III, c. 21—received the Royal Assent. Catholic forty-shilling freeholders were made eligible to vote in the counties, and in such of the more open boroughs as had the freehold and potwalloper franchises. All those oaths, so humiliating in a Catholic country, which any elector, whose religion was at all doubtful, might be required to take at elections, swearing that he was not a Papist, swearing that he was not married to a Papist, swearing that he was not educating his children in the Popish religion, were added to the happily ever mounting pile of discarded religious disabilities; and, furthermore, it was provided that a Catholic freeholder, on presenting himself to vote, had only to take the oaths of allegiance.

In the boroughs the Relief Act did but little to improve the electoral position of the Catholics. The Catholics were expressly excluded from the franchise in the boroughs by special local by-laws passed by the small coteries of self-elected corporations. It is a strange commentary on the state of affairs that the municipality of Limerick, one of

the most Catholic of all the cities, were applauded by the enlightened and liberal-minded of the time as having set a fine example by admitting to the body of freemen, five Catholics—two priests and three laymen—thus enabling them to vote. The example was followed only by a few of the considerable Catholic towns, such as Waterford, Wexford, Galway, and Tuam. As the report of the Irish Municipal Commission (1833-35) shows, only in the pot-walloper and manor boroughs, which possessed wide franchises, were the qualified Catholic inhabitants merged in the electorates, and even in such of the close boroughs as escaped abolition at the Union Catholics continued to be excluded from the franchise down to the great Reform Act of 1832.

But it was different in the counties. Theobald M'Kenna, a contemporary Catholic writer, says, in his *Political Essays relative to the Affairs of Ireland*, that about 30,000 Catholic electors were created in the counties by the Act of 1793. I have seen another estimate that the effect of the Relief Act was to triple the electorate, or to increase it from 60,000 to 180,000. The population at the time—it is interesting to note—was between four to five millions, of whom only 800,000 were non-Catholics. It is certain, however, that the electorate of the counties was largely augmented by the Catholic Relief Act. So much so, indeed, that two years later, in 1795, the Irish Parliament passed an Act which considerably altered the mode of conducting contested elections. The ancient system of polling all the votes in the County Court was abolished. The sheriff was bound to provide, in the county town, as many booths as there were baronies or half baronies in the county; and in these separate booths the votes of the different baronies, or half baronies, were polled. The voting was, however, still open.

There were six county by-elections and one general election between the enfranchisement of the Catholics and the end of the Irish Parliament. The general election took place in 1797, and it was then that the Parliament which

was to pass the Union was constituted. Yet no one thought so at the time, such was the sudden rise of the question of the Union and the celerity with which the Irish Legislature was destroyed. What influence the Catholic voters had in that general election in such county constituencies as were contested is but a matter of idle speculation. It is interesting to note, however, that Edmund Burke, in one of his Irish letters, says that even were Catholics eligible for election to the Irish Parliament, there were not above three, or, at most four, county constituencies where the freeholders were chiefly Catholic, and where, therefore, Catholic representatives would most likely have been elected. The effect of the Catholic Relief Act in many of the counties was but to increase the influence of small landlords whose tenants were Catholic, and endanger, to that extent, the predominance of the great territorial families. To the last, indeed, the Irish Parliament remained somewhat incongruously outlined against the real life of the people—a thing apart—instead of harmoniously blending with it like a really national institution.

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